UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,612	01/21/2004	Manabu Yamazoe	B984-072	3508

26272   7590   06/11/2008
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EXAMINER
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ART UNIT	PAPER NUMBER
2625	

MAIL DATE	DELIVERY MODE
06/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/761,612	YAMAZOE ET AL.
	Examiner	Art Unit	
	MICHAEL BURLESON	2625	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 May 2008</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-26</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-26</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All   b)☐ Some * c)☐ None of:
      1.☒ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments, see pages 9 and 10, filed 05/01/2008, with respect to the

rejection(s) of claim(s) 1-21 have been fully considered and are persuasive. Therefore,

the rejection has been withdrawn. However, upon further consideration, a new

ground(s) of rejection is made in view of Loui et al. US 2003/0072486.

2.   Applicant states that added independent claims 22 and 23 recite an arranging

step that Atkins et al. fails to teach (Applicant's remarks page 9). Examiner agrees with

Applicant. Loui et al. teaches that a set of pictures are filtered and are omitted if they

fall below a threshold, which would read on designating a rating score of a plurality of

images (page 6, paragraph 0058). Loui et al teaches that once these pictures are

filtered, they are determined to be event or sub-event boundaries and are then passed

on to a layout stage to determine layout, based on event boundaries (page 6, paragraph

0058 and 0059). The images in Loui et al. are "extracted" based on image quality rating

and are then "arranged" based on event or sub-event boundaries, which are two

different parameters. This reads on the arranging step of claims 22 and 23.

3.   Claims 1-26 are rejected.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Atkins et al. US 7148990 in view of Loui et al US 20030072486.

1.   Regarding claim 1, Atkins et al. teaches an image extracting method of extracting

images from a plurality of images, comprising: a setting step of setting a number of

images to be extracted from the plurality of images according to a user operation

(column 3,lines 52-60); a recognition step of recognizing evaluations for the plurality of

images, the evaluations being set by a user (column 3,lines 52-67); and an extraction

step of extracting the set number of images from the plurality of images based on the

recognized evaluations (column 4,lines 30-38).

2.   Atkins et al. fails to teach of designating rating scores of the plurality of images

evaluated by the user.

3.   Loui et al. teaches of designating rating scores of the plurality of images

evaluated by the user (page 6, paragraphs 0058 and 0059)

4.   Therefore it would have been obvious to one of ordinary skill in the art at the time

of the applicant's invention to have modified Atkins et al wherein Atkin et al's method is

applied to designating rating scores. It would have been obvious to one of ordinary skill

in the art at the time of the applicant's invention to modify Atkins et al by the teaching of

Loui et al in order to get the most favorable image.

5.   Regarding claim 2, Atkins et al. teaches input step comprises sequentially inputting the evaluations for respective ones of the plurality of images (column 5, lines 20-24).

6.   Regarding claim 3, Atkins et al. teaches wherein the evaluations are input in chronological order (column 5, lines 26-32).

7.   Regarding claim 4, Atkins et al. teaches wherein said input step comprises inputting an instruction for image correction processing including an image correction, in addition to inputting the evaluations (column 5, lines 1-5).

8.   Regarding claim 5, Atkins et al. teaches an album creation step of creating a photo album by arranging the extracted images on each page of the photo album (column 5, lines 51-56).

9.   Regarding claim 6, Atkins et al. teaches of arranging the extracted images on each page of the photo album based on the recognized evaluations (column 5, lines 63-65).

10.   Regarding claim 7, Atkins et al. teaches a division step of dividing the plurality of images into a plurality of groups (column 5, lines 65-67) and wherein said extraction step comprises extracting at least one image from images belonging to each of the groups into which the plurality of images are divided and executing the extraction of the images until a number of images extracted from all the groups reaches to the set number (column 6, lines 4-13).

11.   Regarding claim 8, Atkins et al. teaches wherein said division step comprises designating a group to which each of the plurality of images is to belong and carrying out the division according to the designated group (column 6, lines 4-11).

12.   Regarding claim 9, Atkins et al. teaches wherein said division step comprises dividing the images according to times of creation of the images (column 3, lines 9-12 and column 6, lines 4-11).

13.   Regarding claim 10, Atkins et al. teaches an extraction number input step of inputting a number of images to be extracted from each of the groups into which the plurality of images is divided (column 5, lines 64- column 6, and lines 1-4).

14.   Regarding claim 11, Atkins et al. teaches of an album creation step of creating a photo album by arranging images extracted from each of the groups into which the plurality of images is divided on each page of the photo album (column 5, lines 64- column 6, and lines 1-4).

15.   Regarding claim 12, Atkins et al. teaches wherein said album creation step comprises arranging the extracted images from each of the groups into which the plurality of images is divided on each page of the photo album based on the input evaluations (column 3, lines 9-12 and column 6, lines 4-11).

16.   Regarding claim 13, Atkins et al. teaches wherein said album creation step comprises arranging the extracted images from the groups into which the plurality of images are divided on pages of the photo album based on the groups into which the plurality of images are divided (column 3, lines 9-12 and column 6,lines 4-11).

17.   Regarding claim 14, Atkins et al. teaches wherein said input step further comprises inputting an initial evaluation value intermediate between a highest evaluation value and a lowest evaluation value (column 5, lines 5-9).

18.   Regarding claim 15, Atkins et al. teaches further comprising an input step of inputting the values of the evaluations for the plurality of images and wherein said recognition step comprises recognizing the evaluations based on the user's setting input in said input step (column 3,lines 52-60 and column 4,lines 34-38).

19.   Regarding claim 16, the method of claim 1 performs all of the structural elements of claim 16. Thus, claim 16 is rejected for the same reasons discussed in the rejection of claim 1.

20.   Regarding claim 17, Atkins et al. teaches of a computer-readable storage medium storing a program for causing a computer to execute an image extracting method of extracting images from a plurality of images (column 2,lines 67 – column 3,lines 1-3), the image extracting method comprising: a setting step of setting a number of images to be extracted from the plurality of images according to a user operation (column 3,lines 52-60); a recognition step of recognizing evaluations for the plurality of images, the evaluations being set by a user (column 3,lines 52-67 and column 4,lines 35-39) and an extraction step of extracting the set number of the images from the plurality of images based on the recognized evaluations (column 4,lines 30-38).

21.   Atkins et al. fails to teach of designating rating scores of the plurality of images evaluated by the user.

22.   Loui et al. teaches of designating rating scores of the plurality of images evaluated by the user (page 6, paragraphs 0058 and 0059)

23.   Therefore it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have modified Atkins et al wherein Atkin et al's method is applied to designating rating scores. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Atkins et al by the teaching of Loui et al in order to get the most favorable image.

24.   Regarding claim 18, Atkins et al. teaches an image extracting method of extracting images from a plurality of images, comprising: a setting step of setting a number of images to be extracted from the plurality of images (column 4,lines 30-38), a recognition step of recognizing evaluations for the plurality of images, the evaluations being set by a user (column 5,lines 52-67) and an extracting step of extracting the set number of the images from the plurality of images in descending order of the recognized evaluations (column 3,lines 4-13 and column 6,lines 4-11).

25.   Atkins et al. fails to teach of designating rating scores of the plurality of images evaluated by the user.

26.   Loui et al. teaches of designating rating scores of the plurality of images evaluated by the user (page 6, paragraphs 0058 and 0059)

27.   Therefore it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have modified Atkins et al wherein Atkin et al's method is applied to designating rating scores. It would have been obvious to one of ordinary skill

in the art at the time of the applicant's invention to modify Atkins et al by the teaching of Loui et al in order to get the most favorable image.

28.   Regarding claim 19, Atkins et al. teaches an image extracting apparatus that extracts images from a plurality of images, comprising: a setting device adapted to set a number of images to be extracted from the plurality of images (column 4,lines 30-38), a recognition device adapted to recognize evaluations for the plurality of images, the evaluations being set by a user (column 5,lines 52-67) and an extracting device adapted to extract the set number of the images from the plurality of images in descending order of the recognized evaluations (column 3,lines 4-13 and column 6,lines 4-11).

29.   Atkins et al. fails to teach of designating rating scores of the plurality of images evaluated by the user.

30.   Loui et al. teaches of designating rating scores of the plurality of images evaluated by the user (page 6, paragraphs 0058 and 0059)

31.   Therefore it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have modified Atkins et al wherein Atkin et al's method is applied to designating rating scores. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Atkins et al by the teaching of Loui et al in order to get the most favorable image.

32.   Regarding claim 20, Atkins et al. teaches of a computer readable medium storing a program for causing a computer to execute an image extracting method of extracting a predetermined number of images from a plurality of images (column 2,lines 67 – column 3,lines 1-3), the program comprising: a setting step of setting a number of

images to be extracted from the plurality of images (column 4,lines 30-38), a recognition

step of recognizing evaluations for the plurality of images, the evaluations being set by a

user (column 5,lines 52-67) and an extracting step of extracting the set number of the

images from the plurality of images in descending order of the recognized evaluations

(column 3,lines 4-13 and column 6,lines 4-11).

33.   Atkins et al. fails to teach of designating rating scores of the plurality of images

evaluated by the user.

34.   Loui et al. teaches of designating rating scores of the plurality of images

evaluated by the user (page 6, paragraphs 0058 and 0059)

35.   Therefore it would have been obvious to one of ordinary skill in the art at the time

of the applicant's invention to have modified Atkins et al wherein Atkin et al's method is

applied to designating rating scores. It would have been obvious to one of ordinary skill

in the art at the time of the applicant's invention to modify Atkins et al by the teaching of

Loui et al in order to get the most favorable image.

36.   Regarding claim 21, Atkins et al. teaches wherein said extracting step comprises

eliminating an image, the recognized evaluation of which is lower than a specific

evaluation, from extracting, even where the total number of the extracted images does

not reach to the set number (column 6,lines 4-15)

37.   Regarding claim 22, Loui et al teaches an arranging step of arranging the set

number of images extracted in said extraction step based on a parameter different from

the evaluations (page 6, paragraphs 0058-0059)

38.   Regarding claim 23, Loui et al teaches an arranging step of arranging the set number of images extracted in said extraction step based on a parameter different from the evaluations (page 6, paragraphs 0058-0059)

39.   Regarding claim 24, Atkins et al. teaches an image extracting method of extracting images from a plurality of images, comprising: a setting step of setting a number of images to be extracted from the plurality of images according to a user operation (column 3,lines 52-60); a recognition step of recognizing evaluations for the plurality of images, the evaluations being set by a user (column 3,lines 52-67); a division step of dividing the plurality of images into a plurality of groups (column 5, lines 65-67); an extraction step of extracting the set number of images from the plurality of images based on the recognized evaluations (column 4,lines 30-38); an arranging step of arranging the set number of images extracted in said extraction step based on a parameter different from the evaluations (page 6, paragraphs 0058-0059); wherein said extraction step comprises extracting at least one image from images belonging to each of the groups into which the plurality of images are divided and executing the extraction of the images until a number of images extracted from all the groups reaches to the set number (column 6, lines 4-13); wherein said extracting step comprises eliminating an image, the recognized evaluation of which is lower than a specific value, from the set number of images, even where the total number of the extracted images does not reach to the set number (column 6,lines 4-15).

40.   Atkins et al. fails to teach of designating rating scores of the plurality of images evaluated by the user.

41.   Loui et al. teaches of designating rating scores of the plurality of images
evaluated by the user (page 6, paragraphs 0058 and 0059)

42.   Therefore it would have been obvious to one of ordinary skill in the art at the time
of the applicant's invention to have modified Atkins et al wherein Atkin et al's method is
applied to designating rating scores. It would have been obvious to one of ordinary skill
in the art at the time of the applicant's invention to modify Atkins et al by the teaching of
Loui et al in order to get the most favorable image.

43.   Regarding claim 25, the method of claim 24 performs all of the structural
elements of claim 25. Thus, claim 25 is rejected for the same reasons discussed in the
rejection of claim 24.

44.   Regarding claim 26, the method of claim 24 performs all of the structural
elements of claim 26. Thus, claim 26 is rejected for the same reasons discussed in the
rejection of claim 24.

Conclusion

1.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Burleson whose telephone number is 571-272-7460. The examiner can normally be reached Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Twyler Haskins can be reached on 571-272-7406.

Michael Burleson

Patent Examiner

June 09, 2008

/Twyler L. Haskins/

Supervisory Patent Examiner, Art Unit 2625